

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.: 3:12MC026-GCM-DSC**

**PRINCETON DIGITAL IMAGE
CORPORATION,**

Movant,

v.

LEAD TECHNOLOGIES,

Respondent.

ORDER

THIS MATTER is before the Court on Movant’s “Motion to Compel Lead Technologies to Respond to [Third-Party] Subpoena” (document #1); and the parties’ briefs and exhibits. See documents ## 1, 2, 8, 9 and 11.

Movant seeks to compel Respondent to produce the source code of its software package, LEADTOOLS, for use in Movant’s underlying patent infringement lawsuit against the Hewlett-Packard Company in the Southern District of New York.

Respondent credibly asserts that at least some of the information may be obtained from Hewlett-Packard and that the source code to LEADTOOLS is a valuable trade secret.

The record establishes that Hewlett-Packard has not responded fully to Movant’s discovery requests in the underlying litigation. Hewlett-Packard has not produced its source code, and there is no protective order in place.

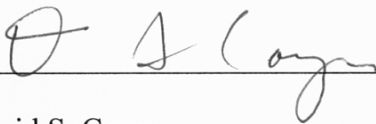
Discovery must be sought first from parties to the lawsuit before burdening third parties. Haworth, Inc. v. Herman Miller, Inc., 998 F.2d 975, 978 (Fed. Cir. 1993). See also Rule 45(c)(3)(B)(i) (authorizing court to quash subpoena seeking production of trade secret).

For these reasons, Movant's Motion to Compel is **DENIED**.

The Clerk is directed to send copies of this Order to counsel of record; and to the Honorable Graham C;. Mullen.

SO ORDERED.

Signed: February 28, 2012

A handwritten signature in black ink, appearing to read "D S Cayer", is written over a horizontal line.

David S. Cayer
United States Magistrate Judge

